

STATE OF MICHIGAN
COURT OF APPEALS

AFSCME LOCAL 1583,

Respondent-Appellee,

v

JOSEPH GANT,

Charging Party-Appellant.

UNPUBLISHED

January 18, 2007

No. 263981

MERC

LC No. 04-000037

Before: White, P.J., and Zahra and Kelly, JJ.

PER CURIAM.

Charging Party Joseph Gant, acting *in propria persona*, claims an appeal from an order entered by the Michigan Employment Relations Commission (MERC) dismissing his unfair labor practice charge. We affirm.

On July 27, 2004, Gant filed an unfair labor practice charge. He alleged that respondent had violated its duty of fair representation by: mishandling grievances it filed on his behalf in 1999 and 2000 regarding his suspension and discharge; making false statements about the case; and disobeying directives to reopen the case.

The Administrative Law Judge (ALJ) recommended that Gant's charge be dismissed in its entirety. The ALJ noted that the applicable six-month statute of limitations in MCL 423.216(a) was jurisdictional and could not be waived, and commenced when the injured person knew of his injury and had good reason to believe that the act that caused the injury was improper. *Huntington Woods v Wines*, 122 Mich App 650, 652; 332 NW2d 557 (1983). The ALJ found that the actions about which Gant complained took place in 1999 and 2000; therefore, his charge was untimely.

MERC adopted the recommendation of the ALJ and dismissed the case. MERC noted that Gant knew of the actions that formed the bases of his charges in 1999 and 2000, and had reason to believe that they were improper when they occurred. MERC found that Gant's unfair labor practice charge was untimely under MCL 423.216(a).

MERC's findings of fact are conclusive if they are supported by competent, material, and substantial evidence on the whole record. Const 1963, art 6, § 28; MCL 423.216(e); *Lansing v Carl Schlegel, Inc*, 257 Mich App 627, 630; 669 NW2d 315 (2003). MERC's legal rulings are

reviewed de novo. *Michigan Ed Ass'n v Christian Bros Institute*, 267 Mich App 660, 663; 706 NW2d 423 (2005).

MCL 423.216(a) provides that “[n]o complaint shall issue based upon any unfair labor practice charge occurring more than 6 months prior to the filing of the charge” Gant was dissatisfied with the results of grievance and arbitration proceedings undertaken by respondent on his behalf in 1999 and 2000, and based his charge on respondent’s actions that occurred during that period. MERC’s finding that Gant knew of respondent’s actions when they occurred and believed that those actions were improper when they occurred is supported by the requisite evidence, including periodic communication with respondent regarding his concerns. Gant’s charge was filed more than six months after the actions about which he complained occurred; thus, the charge was untimely under MCL 423.216(a).

Gant’s assertion that the general six-year statute of limitations for contract actions, MCL 600.5807(8), should apply to revive his claim is without merit. The Public Employment Relations Act, MCL 423.201 *et seq.*, governs public sector labor law. Its provisions take precedence over other, conflicting laws to ensure uniformity in the field of public sector labor law. *Kent County Deputy Sheriffs’ Ass’n v Kent County Sheriff*, 238 Mich App 310, 313; 605 NW2d 363 (1999), *aff’d in part and rem* 463 Mich 353 (2000). MERC correctly held that the six-month statute of limitations in MCL 423.216(a) applied in this case. *Michigan Ed Ass’n, supra*.

Finally, Gant’s assertion that respondent’s failure or refusal to reopen his case revived his claim is unsubstantiated. A party cannot leave it to this Court to search for authority to sustain or reject his position. *Derderian v Genesys Health Care Systems*, 263 Mich App 364, 388; 689 NW2d 145 (2004).

Affirmed.

/s/ Helene N. White
/s/ Brian K. Zahra
/s/ Kirsten Frank Kelly